THE FIFTH DAY

3rd March 1922.

The Assembly met at 11-35 A. M. on Friday, the 3rd March 1922.

39. Desirability of establishing a separate Execution Court for Small Cause Suits.

Mr. V. S. Ramaswami (Member, Nominated) represented that the execution of decrees in property suits was as heavy as the trial itself in such cases, that under Section 238 of the Civil Procedure Code the steps to be taken for realising the decretal amount from the judgment-debtor were complicated in the extreme, and that the same was the case under Sections 225,275,307, 317, etc., also. Execution work was attended to only in a very perfunctory manner after lunch by the Munsiff for an hour or so, and it was quite common for a decree to drag on for 8 or 10 years before the execution proceedings were completed. Instances were not rare in which execution was rendered ineffective owing to the lapse of the statutory period of 12 years and auction sales in courts were being conducted while the court was engaged in the trial of other suits, and extensive and valuable properties were sold for very inadequate prices in consequence. The Member was of opinion that the poor attention paid to execution work was in some measure due to the fact that monthly and quarterly returns contained no column to show the disposal of execution cases. He prayed that a separate officer be appointed in each court to attend to the execution of decrees, the same officer being made the official receiver also.

Dewan's reply.—The Member's suggestion is for establishing separate execution courts. It involves a large expenditure of money. You want two courts in each place in lieu of one. Some of the Munsiffs' Courts may perhaps be abolished as a result of your suggestion, but still the duplication of establishments, etc., will be necessary. You say that the function of the official receiver may also be entrusted to the new officers. Correspondence is going on in respect of the appointment of official receivers.

Member.—In places where there are two courts, one of them may be made the execution court and the system I advocate tried.

Dewan.—Your suggestions will be referred to the High Court for remarks.

40. Difficulties experienced by the people of Shencottah in the matter of the administration of civil and criminal justice with suggestions for remedying them.

Mr. L. Kulathu Aiyar (Member, Municipal Council, Shencottah) said that the Shencottah taluk possessed almost all the public offices with the exception of a Munsiff's Court. The Tahsildar at present was also the Magistrate-Munsiff and this arrangement caused unusual delay in the disposal of cases, as that officer could not, in the midst of his multifarious duties, find sufficient time for attending to his civil work. Failure of justice was also caused by the present officer's inexperience of that work and ignorance of Tamil, the language spoken by the people of the taluk. He also pointed out that under-trial prisoners experienced considerable hardships. For these reasons the Member prayed:—

(1) that the Tahsildar be divested of his powers as Munsiff and a separate officer appointed to administer both civil and criminal justice in the taluk on a decent salary. There was ample work for such an officer, if the Munsiff's jurisdiction could be raised to Rs. 5,000 and the Magistrate awarded first class powers, if need be;

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(2) that, if Government proposed to give only one officer, that officer might be a Munsiff-Magistrate as in Kanjirapalli and Devicolam and not a Magistrate-Munsiff ;

(3) that the pay of the officer should be raised a little so as to keep him above temptation; and

(4) that Tamil be declared the language of the court and that an officer knowing Tamil be appointed as Munsiff-Magistrate.

The Member also requested that sub-jails might be established throughout the State as in British India and that the trying Magistrate be entrusted with the care of under-trial prisoners, the peons of the court doing the work of sentinels without any special remuneration.

Dewan's reply.—There is not much difference between the Government and the Member in regard to this matter. I quite realise the undesirability of the local Tahsildar being a Munsiff, and it is with a view to remove this defect that the creation of a combined Magistrate-Munsiff's Court is being considered by the Government.

Member.—A Magistrate-Munsiff is different from a Munsiff-Magistrate.

Dewan.—You take objection to the officer being called a Magistrate-Munsiff. The idea is that there should be a stationary officer who should try civil suits as well as criminal cases. Do you want to call him a Munsiff-Magistrate?

Member.—Yes, because he will then be under the High Court.

Dewan.—Even now the Magistrates are under the High Court. They are under the Government only in respect of promotions. Your suggestion that the officer should be called a Munsiff-Magistrate will be borne in mind.

Your suggestion in regard to the enchancement of jurisdiction will be referred to the High Court and their remarks invited.

We are posting a Magistrate who knows Tamil to the Shencottah Taluk. Your grievance in this respect has thus been removed.

Member.—We want a general order. Then also with regard to making Tamil the court language, we want an order.

Dewan.—To make Tamil your court language is not a simple matter. Government will try to carry out the wishes of the people as far as possible, but there are difficulties in the way.

In regard to under-trial prisoners, I agree with you in the view that the treatment of the under-trial prisoners, their care, the arrangement for their detention, etc., are defective. I shall take up the matter soon. I am awaiting the decisions of the British Government on the recommendations of the Jail Committee which toured all over India. Further, there is another difficulty, viz., the difficulty of erecting buildings suitable for the detention of these under-trial prisoners. We want special types of buildings for this purpose. The construction of such buildings means money.

41. Necessity for establishing a Munsiff's Court in the Pattanapuram taluk.

Mr. Padmanabha Pillai Kochukunju Pillai (Member, Pattanapuram Taluk) prefaced his representation with a request that one of the High Court Judges might be asked to be present when judicial matters were discussed in the Assembly. He then represented that, though they had submitted a memorial in 1095 for the establishment of a Munsiff's Court at Pattanapuram and received a reply that the matter would be considered after consulting the High Court, they had not been told what the final result of such consideration was. The Member observed that the distance from the easternmost extremity of the taluk to Kottarakara was more than 24 miles, that the people suffered great hardship in the matter of the institution and conduct

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